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ARIZONA ATTORNEY GENERAL
January 22, 1939
Opinion No. 53-10

TO: State Board of Barber Examiners
Mr. H. C. Montgomery, Secretary
17 South Eighteenth Avenue
Phoenix, Arizona

RE: Authority of State Board of Barber Examiners

QUESTION: Is it possible for the State Board of
Barber Examiners to compel a Barber
to submit to a medical examination?

Any compulsion for a barber to submit to a medical examination must be found in the statute law governing his right to engage in the trade of barbering.

Authority for suspension or revocation of a barber's license is found in Section 67-119, A.C.A. 1939. In the instant case Sub-section 2 of this particular statute is pertinent:

"67-119. Refusal or revocation of certificates.--
The board shall refuse to issue or renew, or
shall suspend or revoke, a certificate for any
of the following causes: * * * * *

2. Infectious, contagious, or communicable
disease contracted by the applicant or regis-
trant."

The machinery necessary to insure fairness in the determination of the question of whether or not to revoke a certificate is found in Section 67-120, A.C.A. 1939:

"67-120. Notice of refusal to renew--Suspension
or revocation of license--Hearing--Appeal.-- (a)
No certificate shall, for any of the causes set
forth in the preceding section, be suspended or
revoked, nor the renewal thereof refused, until
the accused has been furnished with a statement
of the specific charges against him, and notice
of the time and place of hearing thereof. The
accused may be present at the hearing in person

or by counsel, or both. The statement of charges and notice must be served personally or mailed to the last known address of the accused at least ten (10) days prior to the hearing. If upon such hearing, the board finds the charges to be true, it may refuse to issue or to renew a certificate of registration, or may revoke or suspend such certificate, if the same has been issued.

(b) Upon the hearing the board may administer oaths and may by its subpoena procure the attendance of witnesses and the production of relevant books and papers."

The rest of this statute provides for appeal from the Board's decision.

From the above statute, it is clear that the Barbers' Board must have good and sufficient evidence before suspending or revoking a license. The board is authorized to subpoena witnesses and relevant books and papers to procure such evidence.

If the Board of Barber Examiners should determine in the case at hand that there is sufficient evidence to suspend or revoke the license of the person in question because of his having contracted an infectious, contagious or communicable disease, it may do so.

Once the license of a barber has been suspended or revoked, he must apply for a new certificate before again engaging in the barbering trade. Section 67-110, ACA 1939, provides:

"Application for certificate of registration.--
Any person who desires to practice barbering, or as an apprentice, or as a hair cutter, shall file with the secretary a written application, under oath, on a form prescribed by the board, accompanied by two (2) signed photographs of the applicant five (5) by three (3) inches in size, satisfactory proof of good moral character and a medical certificate." (Emphasis supplied)

In conclusion, it is indicated that, while it is not possible by direct means to compel a barber to submit to a medical examination,

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it is possible in the above described method to force him to submit a medical certificate that he is free from any contagious, infectious or communicable disease, if he wishes to continue to engage in the barbering trade.

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